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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,490	05/11/2005	Mikio Kubota	OGW-0367	4707

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EXAMINER

SANDY, ROBERT JOHN

ART UNIT	PAPER NUMBER
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3677

MAIL DATE	DELIVERY MODE
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07/25/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,490

Applicant(s)

KUBOTA ET AL.

Examiner

Robert J. Sandy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan (document no. 2002352935) on 12/04/2002. It is noted, however, that applicant has not filed a certified copy of the Japanese application as required by 35 U.S.C. 119(b).

Also noted, a copy of the International Application no PCT/JP03/15527, as filed under 35 U.S.C. 371, has not been filed in the instant U.S. Patent application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as to the following:

Regarding claims 1-8, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

In claim 1, line 7, the phrase "the same" is not descriptive of any particular structure.

In claim 2, line 7, the phrase "the same" is not descriptive of any particular structure.

In claim 2, bridging lines 7 and 8, the phrase "fixed each other" is not understood.

In claim 2, recitation of "a soft magnetic fiber reacting on magnetism, a semi-hard magnetic fiber for inactivating a reaction on magnetism, and a reinforcement material is used as a core yarn material, a coated fiber is made by forming a plastic outer skin on the circumference of the core yarn material, and a first member fixed to one end of the coated fiber and a second member fixed to the other end of the same" is a double inclusion of identical subject matter claimed in base claim 1.

In each of claims 2 and 3, each recitation of "a first member" and "a second member" are each a double inclusion of the claimed subject matter pertaining to respectively "a first member" and "a second member" established in claim 1.

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In claim 5, there is no antecedent basis for "the filament portion" and "the head portion side".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-4 and 6-8, so far as definite, are rejected under 35 U.S.C. 102(b) as being anticipated by Wada (U.S. Patent Application Publication No. 2002/0152589 A1, cited by applicant). Wada ('589) discloses an attaching tool of a display tag (1); wherein a soft magnetic fiber (41) reacting on magnetism or a composite yarn consisting of the soft magnetic fiber and a fiber having a composition different from the soft magnetic fiber is used as a core yarn material, a coated fiber (44) has a plastic (".. molded with synthetic fibres such as nylon, polyester, ...", see ¶ [0093]) outer skin formed on the circumference of the core yarn material, a first member (3, 2) is fixed to one end of the coated fiber, and a second member (2, 3) is fixed to the other end of the same;

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(concerning claim 2, so far as definite) wherein a reinforcement material (i.e., “various synthetic fiber and natural fiber, stranded filaments, heat welding yarn, staple fiber or other rayon fiber of low modulus of elasticity (Polynosic, commodity name of American Enka, Inc.) or others may be used.”, ¶[0091]) is used as the core yarn material, and the first member and the second member fixed to the other end of the same are fixed each other (see Figs. 3a, 3b);

[Examiner’s note concerning claim 2, claim 2 is directed to a product-by-process claim wherein the process relied upon is “made by forming a plastic outer skin..”. This limitation is not given an patentable weight since the structural limitations of the claimed product are met. Therefore it has been held that if the product defined in the product-by-process claim is the same or obvious from a product of the prior art, the claim is unpatentable even though the prior art product was made from a different process. See *In re Thorpe*, 77 F.2d 695, 227 USPQ 964 (Fed. Cir. 1985).]

(concerning claim 3) the first member is a thin-plate head portion (3G, Fig. 16), and the second member is a short crossbar portion (2G);

(concerning claim 4) the core yarn material is extended in the crossbar portion (see Fig. 16 (a), (b));

(concerning claim 6) the first member is formed into an engaging male portion (2), the second member is formed into an engaging female portion (3) in which an insertion hole (3a) is opened, and the engaging male portion is inserted into the insertion hole of the engaging female portion so that the male portion can be engaged like a ring (see Fig. 3(b)) so as not to be removed;

(concerning claim 7) an aggregate of attaching tools is shown in Figs. 9a, 10a, and wherein the aggregate of attaching tools of display tags is formed into one flat plate as a whole, by connecting the attaching tools of display tags to one connecting rod (14, Fig. 12a) disposed in the vicinity of the engaging male portion through a connecting portion (14b) which is able to be cut, and further by connecting the attaching tools of display tags to one connecting rod (15) disposed in the vicinity of the engaging female portion to be cut; and

(concerning claim 8) wherein the aggregate of attaching tools of display tags is formed into one flat plate as a whole, by connecting the attaching tools of display tags to one connecting rod (14) through a connecting member (14b) which can be cut so as to support the engaging male portion in a state of sleepers to space toward the engaging male portion, and moreover by

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connecting the attaching tools of display tags to one connecting rod (15) through a connecting member (15b) which can be cut so as to support the engaging female portion to space toward the engaging female portion.

Allowable Subject Matter

Claim 5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


ROBERT J. SANDY
PRIMARY EXAMINER

Robert J. Sandy
Primary Examiner
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